United Nations S/AC.37/2003/4

Security Council

Distr.: General
25 February 2003
English
Original: French

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 13 February 2003 from the Permanent Representative of Luxembourg to the United Nations addressed to the Chairman of the Committee

I have the honour to transmit to you, annexed hereto, the report of my Government on the implementation of the measures provided for in paragraph 6 of resolution 1390 (2002), adopted by the Security Council on 16 January 2002 (see annex).

(*Signed*) Hubert **Wurth**
Ambassador

03-25989 (E) 280203 280203

Annex

Report of the Grand Duchy of Luxembourg submitted pursuant to paragraph 6 of resolution 1390 (2002), adopted by the Security Council on 16 January 2002

Introduction

In its resolution 1390 (2002) of 16 January 2002, the Security Council requested all States to submit to the Committee established pursuant to its resolution 1267 (1999) a report on the steps they have taken to implement the measures referred to in the aforesaid resolution.

The report below outlines the steps taken by the Luxembourg Government and those taken within the framework of the European Union.

The sanctions regime imposed by Security Council resolution 1390 (2002) was integrated into a European Union regulation adopted during the General Affairs Council of 27 May 2002 (Council Regulation (EC) No. 881/2002) in order to facilitate the comprehensive implementation of that resolution's binding provisions.

• *Ad* paragraph 2 (a)

Council Regulation (EC) No. 881/2002 established a freeze on assets as required by resolution 1390 (2002). The list of named individuals has thus far been amended six times by the following Commission regulations:

– Commission Regulation (EC) No. 951/2002 of 3 June 2002

– Commission Regulation (EC) No. 1580/2002 of 4 September 2002

– Commission Regulation (EC) No. 1644/2002 of 13 September 2002

– Commission Regulation (EC) No. 1754/2002 of 1 October 2002

– Commission Regulation (EC) No. 1823/2002 of 11 October 2002

– Commission Regulation (EC) No. 1893/2002 of 23 October 2002

These regulations are directly applicable in Luxembourg.

Pursuant to information supplied by the Public Prosecutor's Office at the Court of Luxembourg District, natural and legal persons specifically named in the lists drawn up by the United Nations based on the resolutions concerning the Taliban in Afghanistan and the resolutions adopted following 11 September 2001, concerning terrorism in general, are not currently subject to a freeze on funds or other types of assets in the Grand Duchy of Luxembourg.

• *Ad* paragraph 2 (b)

As a party to the Schengen Agreement, Luxembourg collaborates closely with the other contracting States in the area of issuance of visas and monitoring of external borders. The arrangements set up within the framework of the Schengen Information System are implemented strictly, particularly with regard to persons reported as not to be permitted entry into the Schengen area and documents and objects that have disappeared or been stolen. Monitoring at Findel Airport, which is

Luxembourg's only external border, is performed in strict application of the regulations common to the Schengen area.

With regard to the issuance of visas, Luxembourg participates actively in consular cooperation and exchanges of information among the European Union consular missions. At the national level, cooperation between the central visa department in Luxembourg and the various counter-terrorism authorities has been strengthened.

• *Ad* paragraph 2 (c)

The import, export and transit of arms and related materiél, as mentioned in the above-referenced paragraph, are subject to the issuance of a licence by the Ministry of Foreign Affairs. No such request has yet been received by the competent authorities.

As to technical advice, assistance and training related to military activities, a prohibition thereon is contained in the European Union regulation implementing the resolution in question.

• Counter-terrorism measures adopted

In accordance with paragraph 5 of the guidelines for the preparation of reports submitted by States pursuant to Security Council resolution 1390 (2002), the relevant information has been transmitted to the Counter-Terrorism Committee in the report of the Grand Duchy of Luxembourg to the Committee established pursuant to paragraph 6 of resolution 1373 (2001), dated 21 December 2001, and the supplementary report submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 20 August 2002.

United Nations S/AC.37/2003/5

Security Council

Distr.: General
6 March 2003
English
Original: Spanish

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 28 February 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Venezuela to the United Nations addressed to the Chairman of the Committee

Further to your communication dated 27 November, 2002, I have the honour to transmit to you annexed hereto the report of the Bolivarian Republic of Venezuela pursuant to Security Council resolution 1390 (2002).

(*Signed*) Adriana **Pulido**
Ambassador
Chargé d'affaires a.i.

03-26976 (E) 130303 130303

Annex to the letter dated 28 February 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Venezuela to the United Nations addressed to the Chairman of the Committee

Report of the Bolivarian Republic of Venezuela to the Counter-Terrorism Committee pursuant to Security Council resolution 1390 (2002)

Contents of the report

1. **Legislative and/or administrative measures taken to freeze the funds and other financial assets or economic resources of the individuals, groups, undertakings and entities referred to in the list mentioned in paragraph 2 of resolution 1390 (2002), including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, ensuring that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.**

As a Member of the United Nations and of the Organization of American States, Venezuela has, pursuant to United Nations Security Council resolutions for the elimination of terrorism, taken legislative and administrative steps to prevent money-laundering and the financing of terrorism, including activities related to terrorism and to legal or natural persons involved therein. To that end, and pursuant to the measures described in resolution 1390 (2002), the legislative and administrative measures describe below were taken.

With regard to legislative measures, Venezuelan law has a series of provisions governing economic and financial transactions that provide for procedures and penalties to guard against operations carried out by criminal and/or terrorist organizations; such provisions are basically contained in two legal instruments:

1. The Organic Law on Narcotic Drugs and Psychotropic Substances

2. The General Act on Banks and Other Financial Institutions

The Organic Law on Psychotropic Substances requires the Venezuelan financial system to design and develop policies and plans to protect itself against the laundering of proceeds of drug trafficking. In that regard, article 213 requires the national executive branch, through the appropriate agencies, to design and develop an operating plan including preventive measures at the national level to keep the banking and financial system from being used to launder funds and economic assets deriving from the commission of crimes specified in the Law or from activities related thereto.

The General Act on Banks and Other Financial Institutions, in keeping with the thrust of other current legislation and accepted principles of effective banking supervision, mandates banking practices and procedures that promote high ethical and professional standards to prevent the use of the banking system by criminal organizations. For that purpose, under article 226 of the Act a National Financial Intelligence Unit (UNIF) was created within the functional structure of the Office of the Superintendent of Banks and Other Financial Institutions (SBIF). The Unit functions as a central clearing house; it receives, analyses and classifies reports of

suspicious activities submitted by the institutions, firms and individuals subject to its supervision and forwards them to the Public Prosecutor's Office. In addition, it gathers financial information (both objective and subjective) on suspicious activities to assist the criminal investigation authorities.

Moreover, the General Act on Banks and Other Financial Institutions makes an exception to the general principle that requires financial institutions to maintain bank secrecy. In that regard, it states that bank secrecy cannot be cited as a reason for refusing requests for information from the Office of the Superintendent of Banks and Other Financial Institutions in the exercise of its functions.

The administrative measures taken to freeze the funds and other financial assets or economic resources of the individuals, groups, undertakings and entities to which reference is made in the list mentioned in paragraph 2 of resolution 1390 (2002) include:

1. Resolution No. 185-01 issued by the Office of the Superintendent of Banks and Other Financial Institutions.

2. Circular No. SBIF-UNIF-DPC-0563 of the Office of the Superintendent of Banks and Other Financial Institutions.

3. Circular No. SBIF.UNIF-DPC7961 of 23 September 2002.

Resolution No. 185-01 of 12 September 2001 (Rules applicable to entities regulated by the Office of the Superintendent of Banks and Other Financial Institutions on the prevention, control and inspection of money-laundering operations) requires the institution of modern mechanisms for monitoring and controlling the flow of funds, since the entities regulated by the Office of the Superintendent of Banks and Other Financial Institutions may be used by persons engaging in illegal activities. According to the resolution, it is the responsibility of the Government and of the stockholders, administrators, directors and staff of the regulated entities to prevent the entities from being used as intermediaries for money-laundering. To that end, they are required to set up information and electronic data-processing systems and control procedures aimed at detecting operations that involve the laundering of funds deriving from illegal activities and to assemble the necessary records for reporting to the competent authorities.

Financial institutions, registries and public notaries are required to report to the criminal investigation authorities all banking transactions that are unusual or that exceed a specified amount in national or foreign currency. Within the Scientific Criminal and Forensic Investigation Force an investigative unit called the Anti-Money-Laundering Division has been set up to be responsible for financial follow-up of all unusual banking transactions.

In addition, the Office of the Superintendent of Banks and Other Financial Institutions issued circular No. SBIF-UNIF-DPC-0563 instructing financial institutions about their obligation to report operations that they find or suspect are related to the laundering of funds deriving from activities connected with organized crime or intended for the financing of terrorism. As for circular No. SBIF.UNIF-DPC7961 of 23 September 2002, it requires financial institutions subject to the supervision of the National Financial Intelligence Unit to report to it all operations or activities that are suspected of being related to the activities of organized criminal groups or organized groups defined in the act ratifying the United Nations

Convention against Transnational Organized Crime published in the *Gaceta Oficial* No. 37.357 of 4 January 2002.

In that regard, the Financial Intelligence Unit of the Office of the Superintendent of Banks and Other Financial Institutions took the following preventive measures to combat terrorism:

- Determining relations with the financial system of natural and legal persons on the list of persons involved in terrorism or activities related directly or indirectly to drug trafficking;
- Gathering financial data in order to identify organizations that collect funds, and analysing and monitoring financial flows;
- Undertaking prospective analyses and developing the capacity to predict trends and patterns;
- Sharing information with the financial intelligence units of the 96 member countries of the Egmont Group, the Federal Bureau of Investigation (FBI), the Financial Crimes Enforcement Network (FINCEN) and the Embassy of the United States of America in Caracas. As a result, over 900 requests concerning persons suspected of involvement in or the financing of terrorist activities were processed.

At the international level, Venezuela signed and ratified the following conventions and treaties against the financing of terrorism:

1. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances published in *Gaceta Oficial* No. 34.741 of 21 June 1991;

2. The United Nations Convention against Transnational Organized Crime, published in *Gaceta Oficial* No. 37.357 of 4 January 2002;

3. The International Convention for the Repression of the Financing of Terrorism, adopted at second reading on 11 September 2002.

Lastly, it should be noted that the National Assembly is currently debating a draft act against organized crime, which was adopted at second reading, and a draft special act against terrorist acts, adopted at first reading. They criminalize terrorism as a separate offence and criminalize financial activities in support of terrorism, as well as persons involved in terrorism as principals and accessories before or after the fact.

2. **Measures adopted to prevent the entry into or the transit through Venezuela of the persons referred to in the list mentioned in paragraph 2 of resolution 1390 (2002).**

Following the 11 September 2001 terrorist attack, Venezuela tightened control measures in order to prevent the entry into the country of persons identified by international intelligence agencies as being suspected of involvement in, responsible for or accessories after the fact to terrorist activities. Therefore relevant measures have been implemented pursuant to resolution 1390 (2002). In that regard, the Government is processing information on individuals and assets and sharing intelligence with various countries. Security systems at ports, airports and border entry points have been strengthened.

Thus, a coordination network of all the State security agencies was established in order to protect Venezuela's borders and territory. There is a continuing exchange of information among those agencies and other police organizations around the world through Interpol, to check the identity of any individual who is under investigation for any reason.

Border controls have been tightened nationwide at all international airports and ports and the documents of all foreign visitors wishing to enter or leave the country are scrutinized more carefully.

Venezuela is taking steps to strengthen the national system of identification in order to prevent the fraudulent use of travel and identity documents. To that end, security systems and equipment have been put in place at the airports to evaluate identity documents in order to detect any anomaly in such documents that might suggest that they are forgeries. With regard to passports, the National Division for Identification and Immigration has drawn up a plan for replacing current passports with those that meet international security standards.

Multidisciplinary intelligence units have also been established at the national level to evaluate, analyse and process any information obtained on foreign nationals or Venezuelan citizens that suggest involvement in illegal activities in our country, and to fully identify them and monitor their movements, financial transactions or activities.

Venezuela is implementing, with United Nations assistance, a customs modernization project, starting with the customs service at the port of La Guaira, with a view to maximizing customs control at its borders and preventing international trafficking in arms, ammunition, explosives and drugs. Moreover, the draft national police act, soon to be adopted, provides for the creation of an airport police to facilitate the identification, in close cooperation with other State security agencies, of anyone entering or leaving the country.

With respect to legislation, article 2, paragraph 11 of the Act on Scientific, Criminal and Criminalistics Investigation Organs vests such organs with the responsibility for cooperating with other law enforcement agencies in establishing crime prevention centres and setting up control systems or crime databases in order to share information gathered by the intelligence services on drug trafficking, international terrorism, the disappearance of persons, illegal capital movements, organized crime and other offences. In that regard, article 2, paragraph 5, provides that such Organs shall assist the National Division for Identification and Immigration where necessary and shall collaborate in efforts to identify, locate and apprehend foreign nationals sought by other countries.

3. **Measures taken to prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related material of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.**

The manufacturing and illicit trafficking in firearms, ammunition and explosives is an offence under Venezuelan domestic law. The Weapons and Explosives Act, published in *Gaceta Oficial* No. 19.900 of 12 June 1939, contains

specific provisions concerning the trade in, the manufacture, possession, seizure and concealment of firearms, explosives and ammunition. The Venezuelan Penal Code in force contains penalties that are part of the legal arsenal aimed at combating the above-mentioned activities.

In that regard, the Disarmament Act was published in *Gaceta Oficial* No. 37.509 dated 20 August 2002. Its aim is to disarm the civilian population in order to maintain peace, law and order and the safety of the citizenry, safeguard institutions and protect the physical integrity of citizens and their property. It further provides that the army has authority to conduct and monitor the disarmament exercise.

However, such legislation that exists to combat the illicit trafficking in such arms needs to be strengthened and tailored to developments in such criminal activity, especially as it relates to terrorism. For that reason, the Defence and Security Committee of the National Assembly, together with other bodies and with the involvement of civil society, is currently drafting a bill on arms and explosives aimed at updating the existing legislation.

It is important to emphasize that Venezuela signed the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials of 14 November 1997, which is currently awaiting ratification, since the National Assembly enacted the relevant enabling legislation on 12 June 2001.

United Nations S/AC.37/2003/6

Security Council

Distr.: General
10 March 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 7 March 2003 from the Permanent Mission of the Marshall Islands to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Marshall Islands to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to submit the report of the Marshall Islands pursuant to Security Council resolution 1390 (2002) (see annex).

03-27438 (E) 120303

Annex to the note verbale dated 7 March 2003 from the Permanent Mission of the Marshall Islands to the United Nations addressed to the Chairman of the Committee

Report prepared by the Office of the Attorney General of the Marshall Islands, 22 January 2003

We have the honour to report to the Security Council Committee established pursuant to resolution 1267 (1999) that the Nitijela of the Marshall Islands, at its last regular session, passed/adopted the following laws and resolutions with respect to Osama Bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the listings provided by Security Council resolutions 1267 (1999) and 1333 (2000):

1. Counter-Terrorism Act
2. Proceeds of Crimes Act
3. Amendments to the Banking Act regarding money-laundering
4. Foreign Evidence Act
5. Approved accession to the Convention on the Marking of Plastic Explosives for the Purpose of Detection
6. Approved accession to the International Convention against the Taking of Hostages
7. Approved accession to the Convention on the Physical Protection of Nuclear Material
8. Approved accession to the International Convention for the Suppression of the Financing of Terrorism
9. Approved accession to the International Convention for the Suppression of Terrorist Bombings
10. Approved accession to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons.

Furthermore, the following legislation and resolutions have been approved by the Cabinet for submission to the Nitijela of the Marshall Islands for concurrence and adoption during its current session:

1. Mutual Assistance in Criminal Matters Act
2. Transnational Extradition and Transfer of Convicted Persons Act
3. International Convention on Offences and Certain Other Acts Committed on Board Aircraft
4. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
5. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation

7. Convention for the Suppression of Unlawful Seizure of Aircraft

8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

The Republic of the Marshall Islands, in compliance with the mandatory measures contained in resolution 1390 (2002), has taken the initial steps in implementing some of these measures through establishment of a Financial Intelligence Unit (FIU). This FIU is solely responsible for the delisting of the Marshall Islands from being blacklisted by the United States and the European Union. Furthermore, the FIU maintains active contacts with FinCEN and it is currently a regular member of the Egmont Group of FIUs.

The recent amendments to the Banking Act, which include the money-laundering provision, are an example of the firm commitment by the Government of the Marshall Islands to full enforcement of the mandatory measures contained in Security Council resolutions 1390 (2002) and 1373 (2001). The money-laundering amendment has prompted the Commissioner of Banking to instruct all licenced banks and financial institutions in the Republic to report all suspicious transactions and activities in order for the Government to freeze such funds and other assets or economic resources that may belong to individuals, groups, undertakings and entities referred to in the list under resolution 1390 (2002), as required by the Banking Act of the Marshall Islands. We are pleased to report to your Committee that, so far, the banks and other financial institutions in the country have not reported any suspicious transactions to date.

The Counter-Terrorism Act 2002 has further strengthened the immigration laws of the Republic simply by providing an enforcement mechanism flexible enough for the enforcement officers to refuse entry into or transit through the Marshall Islands of the individuals referred to in the list mentioned in paragraph 2 of resolution 1390 (2002). Similarly, this Act has also provided the legal authority for the law enforcement officers to seize and confiscate, on the spot and based on reasonable suspicion, supplies intended to be sold or transferred to these individuals, groups, undertakings and entities by Marshallese citizens either in or outside of the country. Furthermore, under the Compact of Free Association, the Marshall Islands has given the United States the exclusive military rights and use of the land, sea and air of the country. Therefore, ships under the flag of the Marshall Islands are subject to United States Coast Guard maritime laws. The United States Coast Guard has the right to board ships flying our flag in order to carry out investigations of any suspicious shipment of arms and related material of all types, including spare parts, intended to promote the activities of Osama Bin Laden and the members of the Al-Qaida around the world.

The Marshall Islands Government has been actively deporting illegal immigrants, who are mostly from mainland China and Taiwan. The number of deported illegal immigrants has increased significantly due to the strong enforcement of the domestic immigration laws of the country.

We hope your Committee will find our report to meet satisfactorily the mandatory initiatives promulgated and outlined in the list mentioned in paragraph 2 of resolution 1390 (2002). Please let us know if your Committee should need more information.

United Nations S/AC.37/2003/7

Security Council

Distr.: General
10 March 2003
English
Original: Spanish

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 10 March 2003 from the Permanent Mission of Nicaragua to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Nicaragua to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) on counter-terrorism.

In this connection, the Permanent Mission of Nicaragua has the honour to transmit the report drawn up by the Government of Nicaragua pursuant to resolution 1390 (2002) (see annex).

03-27460 (E) 140303 170303

Annex to the note verbale dated 10 March 2003 from the Permanent Mission of Nicaragua to the United Nations addressed to the Chairman of the Committee

Introduction

The Government of Nicaragua considers that the offence of money-laundering leads to a breakdown of social, political and economic structures, encourages corruption and helps facilitate activities such as drug trafficking, terrorism and organized crime.

The President of Nicaragua, Mr. Enrique Bolaños Geyer, has stated the following with respect to this crime:

> "My Government has clearly defined its position in the fight against corruption, money-laundering and terrorism. We must unite to put an end to this scourge which erodes our principles, our democracies and our freedom."[1]

The following report contains the measures adopted in Nicaraguan territory pursuant to paragraph 2 of resolution 1390 (2002) adopted by the Security Council, thus complying with the provisions of paragraph 6 of that resolution.

The legislative and administrative provisions referred to below, such as the enactment of laws, the discussion of a draft penal code in the Legislature and the approval of the Prudential Standard for Prevention for the Laundering of Money and Other Assets, demonstrate that Nicaragua has the firm resolve and the determination to combat international terrorism in all its forms and manifestations.

Paragraph 2 of resolution 1390 (2002):

> "*Decides* that all States shall take the following measures with respect to Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) to be updated regularly by the Committee established pursuant to resolution 1267 (1999) hereinafter referred to as "the Committee";
>
> "(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory;"

The legislative and administrative measures adopted to freeze the funds and other financial assets or economic resources are as follows:

1. Enactment of the Act amending and supplementing Act No. 177, the Act on Narcotic, Psychotropic and Other Controlled Substances:[2]

[1] Address by President Enrique Bolaños at a lunch organized by the Association of American Chambers of Commerce in Latin America in May 1992.

[2] Act No. 285, published in *La Gaceta, Diario Oficial* No. 69, of 15 April 1999.

It provides for the establishment of the Financial Analysis Commission, to propose policies for preventing and suppressing the crime of asset laundering, detect all activity relating to the laundering of money derived from unlawful activities and investigate and analyse possible methods utilized in that offence.[3]

More information on this subject is included in the report of the Republic of Nicaragua submitted to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001) (see document S/2002/585, enclosure).

For the purposes of Act No. 177 the judge may, ex officio or at the request of a party, immobilize bank accounts of accused persons or persons who have benefited from the offences committed and order an institution, company of any kind or business participating directly or indirectly in commission of the offence of laundering of money and assets deriving from unlawful activities to be placed in administration.[4]

Article 76 of Act No. 285 provides that, by court order, banking secrecy may be waived in respect of persons under investigation for any of the offences specified in the Act;

2. Discussion of the new draft penal code:

The draft is with the Justice Commission of the National Assembly, and includes a definition of the offence of money-laundering. To date, Section 1, entitled "General provisions relating to crimes, offences, penalties, consequences incidental to the criminal offence and persons criminally liable", has been approved;

3. Approval by the Superintendency of Banks and other Financial Institutions of the Prudential Standard for Prevention of Laundering of Money and Other Assets, published in *La Gaceta, Diario Oficial* No. 71 of 18 April 2002;

The Standard provides that financial institutions shall implement:

Policies incorporating the obligations laid down for those institutions in the legislation and regulations applicable to the offence of money-laundering;

Preventive and monitoring measures to ensure that the institution is not utilized for unlawful purposes associated with money-laundering;

Internal policies and procedures which shall be revised and updated in accordance with regulatory changes and the existence of new unlawful schemes identified by financial bodies or reported by the Superintendency;[5]

4. Bring to the knowledge of the competent authorities, such as the Superintendency of Banks, the Office of the Attorney-General of the Republic and the Central Bank, among others, the list of persons involved in the present resolution, for purposes of freezing the accounts of the entities and persons identified;

5. Ratification of the Central American Convention for the Prevention and Suppression of Money-Laundering Offences related to Illicit Drug Trafficking and Associated Offences, signed in Panama on 11 July 1997;

---

[3] Act No. 285, article 25.

[4] In the case of financial or banking institutions it will be the Superintendency of Banks that intervenes.

[5] Article 3 (a).

6. Implementation of the Convention between Central America and the Dominican Republic for the Prevention and Suppression of Offences of Laundering of Money and Assets Related to Illicit Drug Trafficking and Associated Offences, signed on 6 November 1997 and in force since 5 May 2000;

7. Approval by the legislature of the United Nations Convention against Transnational Organized Crime and Its Protocols, signed at Palermo, Italy, from 12-15 December 2000.[6]

With regard to ensuring that nationals and/or persons within the national territory do not make funds, financial assets or economic resources available to the persons covered by the resolution, the following measures have been taken:

1. Inclusion of the customer identification procedure in the Prudential Standard for Prevention of the Laundering of Money and Other Assets, which provides in article 4 that no financial institution may engage in any type of transaction unless:

(a) The person has an account or an established relationship for such transactions with the financial institution in which the holder is identified;

(b) If the person is not an established customer, he submits to the financial institution duly verified means of identification.

Likewise, financial institutions must establish verification programmes for the identification of their clients, containing as a minimum the following:

(a) Reasonable measures to obtain and retain information about the true identity of the persons on whose behalf an account is opened and/or the services of the institution are utilized, as well as of persons authorized to sign on such accounts;

(b) Controls to prevent the opening and operation of anonymous accounts or accounts in fictitious or incorrect names;

(c) Reasonable measures within the framework of the law to obtain adequate references relating to clients, verify the reason for initiation of the relationship with the client and determine the link between accounts not corresponding to the normal profile of clients;

(d) Measures to record the services received by a given client;

(e) Approval of the agreement to open the account by an authorized person;

(f) Maintenance of updated information on the client.[7]

At the time of initiating a contractual relationship involving credits, debits or fiduciary transactions:

[6] Approved by Decree of the National Assembly No. 3246, of 13 February 2002, and published in *La Gaceta, Diario Oficial* No. 38 of 25 May 2002.

[7] Article 5 of the Prudential Standard for the Prevention of Laundering of Money and Other Assets.

(a) Means of identification (legal document whose authenticity is established beyond doubt);[8]

(b) Memorandum of association and statutes indicating the corporate purpose of the legal person;

(c) Certification of membership of the company's Board of Directors;

(d) Power of attorney or certification by the Board of Directors indicating the legal status or legal representation of the company;

(e) Taxpayer identification number;

(f) Bank, commercial or personal references;

(g) Inclusion in the relevant register.[9]

The Prevention Standard for the Prevention of Laundering of Money and Other Assets provides that financial institutions must maintain a manual, computerized or other system to facilitate extraction of data relating to all transactions involving:[10]

Sale of payment instruments such as bank cheques, cashier's cheques, traveller's cheques and the like, through the use or exchange of cash funds;

Internal and external transfers of funds or payment orders (electronically, by facsimile or by other means);

2. Obligation to report all transactions in amounts in excess of $10,000:

Financial institutions are required to report to the Superintendency of Banks individual transactions, including multiple or divided transactions, involving deposits, withdrawals, currency exchange, purchase or sale c ecurities and shares, and other financial transactions and payments or trans. s through or into the financial institution involving the exchange of cash funds and exceeding in one day the above-mentioned amount or its equivalent in national currency.[11]

"(b) Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case by case basis only that entry or transit is justified."

This information was included in section (g) under paragraph 2 in the report submitted by Nicaragua to the Security Council pursuant to resolution 1373 (2001) (see appendix II).

[8] For purposes of these regulations, the following are considered as means of identifications, for Nicaraguans, the card issued by the Supreme Electoral Council; for foreigners residing in Nicaragua, a valid residence card issued by the Department of Migration and Alien Affairs and a passport; for non-residents a passport with a valid entry visa; for Central Americans CA-4 documentation.

[9] Prevention Standard for the Prevention of Laundering of Money and Other Assets, article 6.

[10] Idem, articles 11 and 14.

[11] Idem, article 17.

"(c) Prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities."

With respect to control of arms trafficking, the following measures have been adopted:

1. Incorporation of the following activities in the National Plan to Combat Terrorism and Related Offences:

Institution of information exchange between the Nicaraguan Army and the Customs Department;

Conduct intelligence, surveillance and monitoring activities at blind spots on the northern and southern frontiers;

Request customs agencies to notify the arrival or departure of their source 72 hours in advance for purposes of subsequent inspection;

Increased control and inspection in the loading of arms, munitions, spare parts and the like;

Maintenance of up-to-date information at ports and frontiers on individuals reported as suspected of arms trafficking;

Reinforcement of surveillance at frontiers, airports and ports using trained dogs;

2. Formulation of projects for the control of illicit trafficking in arms, munitions and the like in the framework of the National Plan to Combat Drugs;

3. Annual training of officials in specialized techniques for preventing arms trafficking, with the participation of the Ministry of Defence, the National Army, the National Police, the Customs Department and the Drug Control Council;

4. Purchase of equipment for customs and border posts controls;

5. Review of the Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components and Ammunition, issued by the Inter-American Drug Abuse Control Commission, with a view to identifying possible means of applying the control procedures contained in the Regulations;

6. Review of existing legislation on the possession, trafficking, exchange, sale, purchase and transfer of firearms;

7. Conduct efforts through the Commission of Central American and Caribbean Chiefs of Police to take action, sign police cooperation agreements to combat and minimize trafficking in arms, ammunition, explosives and similar items, and systematize the most effective and timely exchange of information;

8. Adoption of measures in the light of the possibility afforded by the CA-4 Agreement which provides for free transit across the frontiers of signatory countries and for facilitation of marketing in some countries, aspects which are taken advantage of by organized crime for smuggling and illicit trafficking;

9. Strengthening of police units specially trained to deal with this type of offence by creating and updating the databases of interest for the exchange of information;

10. Development of frontier actions to prevent and eradicate smuggling and arms trafficking by strengthening frontier posts and locating and identifying blind spots;

11. Strengthening of coordination with the National Army, the Department of Migration and Alien Affairs, Interpol, the Customs Department and the Ports and Airports Administration;

12. Adaptation of the legal framework to prevent and counter arms trafficking;

13. Conduct of efforts to achieve better levels of technical and specialized training so as to afford better possibilities of dealing with this type of offence;

14. Operations of the Nicaraguan Army:

Requests for daily information on the status of the Nicaraguan Army's arsenals, stores and military inventory with effect from 1 March 2002, to be submitted and updated every day through the Civil Defence General Staff;

Conduct in situ monitoring of arsenals with the technical support of the Mine Clearance Assistance Mission in Central America of the Organization of American States and under the National Mine Clearance Plan in relation to anti-personnel and anti-tank mines and explosives through the National Humanitarian Mine Clearance Commission.

Appendix I

The Superintendency of Banks and Other Financial Institutions shall assist the Financial Analysis Commission in the performance of its duties and provide it with any information at its disposal relating to the banking system or any other financial entity, in order that the Commission may examine and analyse the information and compare it with any other information in its possession in order to identify operations that may be associated with unlawful activities and may serve as documentary proof of the transaction in criminal, civil and administrative proceedings initiated in respect of the investigation of the offence of laundering of money and assets.

The Superintendency of Banks is empowered to authorize, supervise, monitor and oversee the establishment and functioning of all banks, branches and banking agencies operating in Nicaragua, whether State or private, national or foreign, habitually engaging directly or indirectly in brokerage operations regarding the supply and demand of financial resources or the provision of other banking services.[12]

[12] Article 2 of the Act on the Superintendency of Banks and Other Financial Institutions.

Appendix II

Subparagraph (g)

The following measures have been adopted at border points:

1. Increased security at the country's borders, ports and airports, through compliance with international civil aviation security standards;

2. Coordination between the Customs Department and the Department of Migration and Alien Affairs at the border ports of Guasaule, El Espino, Las Manos, Peñas Blancas and Río San Juan, so that complete information may be obtained when providing services after the scheduled hours of operation of means of transport, with a view to preventing the entry into Nicaragua of persons linked to national or international organized crime;

3. Establishment of controls on smugglers and illegal emigrants at border points in order to prevent the entry or exit of persons linked to terrorist acts;

4. Establishment of immediate operational communication between police units stationed at border areas through established border posts;

5. Establishment of strict controls over technical equipment installed for the purpose of detecting arms and explosives at the border control post situated at Peñas Blancas, on the border with Costa Rica;

6. Regulation of illegal trafficking in persons, through Act No. 240, on control of trafficking in illegal migrants, which was published in *La Gaceta, Diario Oficial*, of 20 November 1996;

7. Coordination between police chiefs and their counterparts who have responsibility for border posts within their jurisdictions, with a view to establishing a protocol for cooperation to promote joint efforts to implement the measures called for under the regional plan to combat organized crime, and consideration of the following agenda at their first meeting:

(a) Assessment of the operational situation:

- Size of the border area in square kilometres;
- Real property in the border area (farms, size of property, owners);
- Productive activity/sources of financing;
- Identification and description of the weak points used for the transport of illegal emigrants, with a view to devising operational methods for monitoring them;
- Listing of fugitives or wanted persons, including, where possible, photographs and documents that may assist in the search;
- Cases of citizens on both sides of the border previously or currently detained and for what types of offences, reports on those currently serving sentences in penitentiaries;
- Operational interest by the parties in exchanging information on pending cases in respect of which collaboration would be useful.

(b) Proposal to be jointly developed for the elaboration of specific plans to deal with manifestations of organized crime.